

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DIANNE E. TORRES,

Plaintiff,

vs.

No. 1:25-cv-0263

THE UNITED STATES GOVERNMENT,

JURY TRIAL DEMANDED

Defendants.

COMPLAINT FOR NEGLIGENCE

COMES NOW Plaintiff, by and through her attorneys, Guebert Gentile Piazza & Junker P.C., (Robert F. Gentile and Clinton E. Dow), and respectfully submits this Complaint against Defendant for negligence and states as follows:

JURISDICTION AND VENUE

1. Jurisdiction over the federal claims is proper under Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-2680.
2. Plaintiff met all requisite jurisdictional notice requirements pursuant to the Federal Tort Claims Act.

PARTIES

3. Diane Torres is a resident of the State of New Mexico.
4. The United States Postal Service (“USPS”) owns and operates a post office located at 900 Pinetree Road SE, Rio Rancho, New Mexico 87124. This post office is a United States government owned and operated office.

5. Pursuant to 28 U.S.C. § 2679(d), any action against a federal employee acting within the scope of his office or employment at the time of the incident out of which the claim arose shall be deemed an action against the United States, and the United States shall be substituted as the party defendant. However, the United States has not stipulated that any of the Defendants were acting in the course and scope of their employment in this matter.

FACTUAL BACKGROUND

6. On December 16, 2019, Dianne Torres entered into the post office at 900 Pinetree Road SE, Rio Rancho, New Mexico 87124, to conduct business.

7. Unbeknownst to Plaintiff, the rug in the front vestibule was damaged or in a state of disrepair causing one end to flare up.

8. As Ms. Torres entered the vestibule of the post office her foot caught on the damaged black rug causing her to trip.

9. After she tripped, Ms. Torres fell face first causing her head to squarely hit the blue metal window trim on the wall opposite the entrance door.

10. On examination, the black rug in the vestibule did not lie flat on the ground. The lip of the rug was raised creating a tripping hazard.

11. The rugs in the vestibule appeared to be worn and overly used indicating that they had been in use for an extended period of time.

12. Due to the apparent extreme wear of the rugs in the vestibule, the post office employees were put on either actual, or constructive notice, of the danger the rugs posed to patrons to the post office.

13. A supervisor checked on Ms. Torres, but the name of the supervisor is unknown.

14. Ms. Torres was severely injured as a result of the USPS's failure to maintain their entry walkway.

NEGLIGENCE AND PREMISES LIABILITY

15. Plaintiff hereby incorporates the preceding paragraphs as though fully set forth herein.

16. Pursuant to the Federal Tort Claims Act, Defendant United States is liable for tort claims in the same manner and to the same extent as a private individual under like circumstances.

17. Pursuant to the provision of the Federal Tort Claims Act, Defendant United States is liable for the negligent acts, omission, and errors of its employees or agents acting within the scope of their duties, as well as liable for any and all independent contractors who may have been employed and under the control and direction of Defendant United States.

18. At all times pertinent hereto, and as to all acts alleged herein, the USPS employees, supervisors or agents of Defendant United States located at post office at 900 Pinetree Road SE, Rio Rancho, New Mexico 87124, were acting within the scope of their duties, and otherwise acting with the full knowledge and consent of Defendant United States.

19. Defendant USPS employees knew, were put on notice, or should have known the post office entryway rug created a hazardous condition by not sitting flush on the floor of the entryway.

20. Defendant USPS employees knew, were put on notice, or should have known the post office entryway rug was overly worn and caused a tripping hazard.

21. The following negligent acts and failures to act at the USPS post office at 900 Pinetree Road SE, Rio Rancho, New Mexico 87124, and without limitation, proximately caused Plaintiff to suffer from serious injuries in one or more of the following respects:

- a. Failure to maintain USPS entrance walkway;
- b. Failure to maintain floors and mats;
- c. Failure to warn of a dangerous condition;
- d. Failure to inspect and make safe dangerous conditions;
- e. Negligent acts which fell below the standard of care in other respects.

22. Defendant United States is, therefore, liable for the negligent acts of the USPS employees and other personnel.

23. Defendant owed Plaintiff the duty to keep their premises safe from hazards including tripping hazards.

24. Defendant failed to exercise ordinary care, and this failure proximately resulted in permanent and irreparable injuries to Plaintiff.

25. As a direct and proximate and foreseeable result of the breach of the standard of care, and the negligent acts and omission of Defendant, Plaintiff suffered permanent and irreparable injuries, loss of enjoyment and the quality of life, past present and future medical bills, loss of income and income opportunity, pain and suffering, punitive damages, and other damages to be identified.

REQUESTED RELIEF AND JURY DEMAND

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

1. Award compensatory damages against the Defendant in an amount to be determined by the jury at trial;
2. Punitive damages;
3. Award pre- and post-judgment interest on all monetary damages in an amount to be fixed by the Court;
4. For her costs of this action;
5. For such reasonable attorneys' fees as may be permitted by law;
6. Plaintiff demands a **jury trial**; and
7. Award other and further relief as the Court deems proper under the circumstances.

GUEBERT GENTILE PIAZZA & JUNKER, P.C.

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